



# COMMISSION ON DISABILITY

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Setti D. Warren  
**Mayor**

Candace Havens  
**Director, Planning & Development**

Alice Walkup  
**Senior Planner  
Community Development**

Anne Marie Belrose  
**CD Manager**

#### **Members**

Rob Caruso, Co-Chair  
Girard Plante, Co-Chair  
Jane Brown  
Lucie Chansky  
Jini Fairley  
Rosemary Larking  
John Lojek  
Barbara Lischinsky

#### **Advisor**

Sergeant Jay Babcock  
Newton Police Department

#### **Staff**

Joel Reider  
ADA/Sec 504 Coordinator

1000 Commonwealth Ave.  
Newton, MA 02459  
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[www.newtonma.gov](http://www.newtonma.gov)



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# CITY OF NEWTON, MASSACHUSETTS

## Commission On Disability

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### Meeting Agenda

Date: October 21, 2013

Time: 6:30 p.m.

Place: Room 209

Setti D. Warren  
**Mayor**

Candace Havens  
**Director, Planning &  
Development**

Alice Walkup  
**Senior Planner  
Community Development**

Anne Marie Belrose  
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- 1. Minutes:** Consideration of the approval of the minutes from the September 9, 2013 meeting of the Commission on Disability (6:30-6:35)
- 2. ADA Coordinator report - Joel Reider (6:35-6:45)**
- 3. CDBG report: Lasell College Dorm –**  
Alice Walkup (6:45-6:55)
- 4. Center St./Beacon St. intersection –**  
Cathy Schneider, Jini Fairley, Bill Paille (6:55-7:10)
- 5. 40 Chase St. Decision of AAB 9/12/13 (7:10-7:15)**
- 6. 35 Webster St. Decision of AAB 9/9/13 (7:15-7:20)**
- 7. HP4-13, 80 West St. (7:20-7:25)**
- 8. HP violation report and account –**  
Sgt. Babcock (7:25-7:40)
- 9. Mayor's meeting report of City's HP violations projects & members' letters (7:40-7:50)**
- 10. Old/New Business (7:50-8:00)**

**Adjournment (8:00)**

**Next meeting:** November 18, 2013

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# CITY OF NEWTON, MASSACHUSETTS

## Commission On Disability

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The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you have a special accommodation need, contact the Newton ADA Coordinator, Joel Reider, at least two days in advance of the meeting: [jreider@newtonma.gov](mailto:jreider@newtonma.gov) or (617) 796-1145. For Telecommunications Relay Service, dial 711.



# DRAFT MEETING MINUTES

September 9, 2013

## COMMISSION ON DISABILITY

### Draft Meeting Minutes

September 9, 2013

Setti D. Warren  
**Mayor**

Candace Havens  
**Director, Planning &  
Development**

Alice Walkup  
**Senior Planner  
Community Development**

Anne Marie Belrose  
**CD Manager**

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Girard Plante, Co-Chair  
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### **Members Present**

Rob Caruso, Co-Chair  
Jane Brown  
Rosemary Larking  
Barbara Lischinsky  
John Lojek

### **Regrets**

Girard Plante  
Lucie Chansky  
Jini Fairley

### **Staff Present**

Joel Reider, ADA Coordinator  
Alice Walkup, Senior Planner, Community Development  
Sergeant Jay Babcock, Newton Police Department

### **Guests**

Sandra Lingley

### **Presenting Request for HP3-13**

Alderman Ted Hess-Mahan

### **MEETING:**

Rob Caruso called the meeting to order at 6:35 PM

### **1. Minutes**

John Lojek moved to approve the minutes of the previous meeting, July 8, 2013; Rosemary Larking seconded the motion. Motion passes.

### **2. ADA Coordinator Report**

Joel R. gave a summary of his networking and information gathering efforts since the last COD meeting, especially with regard to the requirements of and means of producing the City's ADA Transition Plan.

He mentioned his meeting with the Fair Housing Committee and described their efforts to get an accurate assessment of accessible housing in the City. As Accessibility Coordinator, he will cooperate with FHA and serve as a liason with the COD regarding this issue. Rob Muollo, Housing Planner, addressed the COD and discussed some of the common interests between COD and the Fair Housing Committee. He suggested that there would be some cooperation between the two groups as work proceeds towards improving accessibility throughout the City, in both public buildings and housing.

Joel also introduced an RFP from New England ADA Center about their Field Based Training program. He encouraged COD membership to complete a proposal and enter this competition to have NE ADA conduct a two-day training workshop in Newton for 20 participants.

### **3. CDBG Report**

Alice Walkup gave updates on:

- **Education Center – Accessible Building Directory Sign** This project is getting under way soon with a meeting scheduled in September for planning staff and school dept members.
- **Curb Cuts** two @ Comm Ave/Washington are completed; APS needs to be moved. Pearl/Jackson is nearly done and is expected to be significantly under budget. Newton Center is almost complete; only remaining work to be done is installation of lighting which is not being paid for with CDBG funds. Curb extensions and new curb cuts are a big improvement.
- **Jackson Homestead** Planning staff met with Adam Gilmore of Public Buildings Dept. and Cindy Stone of Historic Newton to discuss application for additional funds to improve accessibility. Application was approved by CPC and will be heard by the Public Facilities and Finance Committees of the Board of Aldermen.
- **War Memorial Vertical and Acoustical Access Feasibility and Design** Engineering study underway to learn what is beneath the proposed elevator shaft.

Rob C. mentioned that he and Girard attended a CPC meeting to review this issue at which two new people from the planning dept (?) seemed to have no understanding of the project to date (they suggested the elevator would not go to the basement).

Alice W. apologizes for any misunderstanding and clarifies: the new people are from Public Buildings, not Planning Dept. The architect previously managing

the project moved to a new project, so there are new people involved in managing the War Mem project. The plan to have the elevator serve the basement is still being studied for feasibility and it's possible that the geotechnical team will discover that the conditions below the proposed elevator make this plan unfeasible. They also wanted to recognize that the existing HP accessible elevator does service the basement, so while not particularly convenient, there is an accessible route.

John L. asked if the geotechnical report was finished (no, it is not) and pointed out that new Project Managers on existing projects always try to cut costs. Apparently early estimates for the elevator came in higher than expected and they may be anticipating ways to protect the project budget.

• **Jackson Homestead Funding Support Letter** Alice W. read out loud the draft letter for review (see packet, p. 28). This letter is from COD to Public Facilities Committee to express support for Public Building Department's application for additional CDBG funding to improve accessibility at the museum.

Rosemary L. moves to support the letter. John L. seconds. Motion passes unanimously.

#### **4. Vote on Alternate COD Meeting Dates**

Rob C. explains the need to agree on alternate meeting dates for October and November because of holiday conflicts. Consensus is to meet on the Mondays following each of the regularly scheduled meetings:

October 21

November 18

#### **5. HP3-13**

Alderman Ted Hess-Mahan presenting application for HP Space in West Newton on Washington St. (eastbound) near the entrance to the West Newton Cinema and the West Newton Hearing Center. He explains a meeting he attended at which Rhonda Ruby of the Hearing Center expressed the need for more HP Spaces in this area, particularly with easy access to the Hearing Center, which has a considerable number of patients with mobility impairments. He recognizes there have been unsuccessful petitions in the past, but feels this is a reasonable request. He stated that the Hearing Center recognizes that an HP Space would not be reserved for their patients but would be available to anyone; the general emphasis is that although there is an existing HP Space in front of the courthouse across the street, there isn't adequate parking for persons with disabilities in this area.

The alderman met with Bill Paille, City Traffic Engineer, to select the proposed space: the last space before the crosswalk. Bill P. feels that when unoccupied, this will improve pedestrian visibility and safety. This is currently a “dead” space and so creating an HP Space here will not reduce the number of metered spaces.

Sgt. Babcock stresses that the crosswalk safety depends partly on visibility afforded by the current “dead” space. Making that into an HP Space might obstruct sightlines, particularly if a large vehicle (van) is parked there. This would make the intersection less safe for pedestrians. He suggested that maybe the first spot after the crosswalk would be a better location. Whatever location is finally proposed, the Traffic Council will ultimately have to review it for safety.

Rob C. mentions the high curb at this area as another concern when selecting the location.

John L. suggests that David Koses (Chair, Traffic Council) and Sgt. Babcock study the situation and consider all possible options (alley next to Sovereign Bank?). Moves that the COD support the *idea* of providing an HP Space on this block but not necessarily in the specific location indicated on the application. Traffic Council should recommend the best location. Jane B. seconds. Motion passes.

## **6. Hull Street HP Spaces Update**

Joel R. summarizes David Koses’ effort to have MAAB re-open the proposal to provide three HP Spaces on Hull Street as part of the application for variance regarding the location of an access ramp near the stairs to the High School. Even with the support of the COD and with several months of data showing daily use of these spaces (they are hardly ever used by HP placard holders), Tom Hopkins of MAAB responded that the Board refused to re-open the case. Asked if there is another way to approach the MAAB about this issue (i.e. new application to remove existing HP spaces) Tom H. said there is none. Furthermore, MAAB requests photographic proof that the 3 HP spaces and related signage were provided as agreed, as none was ever submitted by the City.

John L. reminds the COD that these spaces are part of that agreement to relocate the access ramp, and so are not just like any other HP Spaces the City might want to remove: though it’s regrettable that the City volunteered to provide these spaces in the first place, it’s now too late to amend the agreement. The Board has made its decision, and it’s unrealistic to expect them to reverse their decision. John L. moves to shelve the issue and see what

happens over the next few years. If it becomes a serious problem, perhaps the school will file a complaint. Motion passes.

## **7. HP Violations Report**

Sgt Babcock reports summer months were not as busy as expected. There were 47 issues in a two-month period; mostly in municipal lots. Trying to get approval for overtime so his officers can do more “stings,” especially before the winter weather arrives. Confiscated 7 HP Placards; suspended one license with a \$500 fine for using someone else’s HP Placard.

Rob C. asks Joel to send a message to Maureen Lemieux and to the Building Dept. to request a list of accessibility improvement projects funded by HP fines. He reviewed the history of asking the Mayor’s office for records of these projects w/o satisfactory reply.

## **8. 35 Webster St. Nathaniel Allen House MAAB Application for Variance (update)**

Joel explains: Donald Lang is out of town and unable to address the COD regarding his application for variances for the Nathaniel Allen House. He has offered to come to our next meeting to review this project, and in the meantime he reminds us that Phase II, which involves all of the access-relevant variances, will not begin for a while and that the application will not be heard by MAAB until after the new year. COD has plenty of time to review this application and make its recommendations to MAAB.

## **9. 321 Chestnut St. All Newton Music School MAAB Amended Decision**

Joel explains: MAAB has granted a deadline extension to comply with the Board’s decision.

## **12. ADA Transition Plan**

Joel R. summarizes his research and meetings with various individuals and organizations in support of his efforts to advance the development of Newton’s ADA Transition Plan. Though he is currently on schedule as outlined in his previously submitted Draft timeline for developing ADA Transition Plan (July 31, 2013), he is certain that target dates from this time forward will have to be moved back. His immediate goal is to deliver an interim report that will outline the components and process of developing a Transition Plan, and what is needed to complete it, including possibly hiring outside consultants to support the City’s efforts.

Joel R. has met with other ADA Coordinators (Betsy Allen in Somerville and Lloyd Gelineau in Brookline), Massachusetts office on Disability staff Jeff Dougan and Allan Motenko, and accessibility expert consultant Katie



McGuinness of KMA, and will meet (tomorrow) with staff at the Institute for Human Centered Design/New England ADA Center.

Joel R. has gathered models of good Transition Plans, and emphasizes that the first step in drafting a plan for Newton is to have an accurate assessment of accessibility barriers to City programs or services. This is generally known as a self-evaluation, and is a comprehensive study typically conducted by an expert consulting firm such as KMA or IHCD. Joel has discovered that KMA completed a partial assessment of Newton City buildings in 2011 as a sub-contractor to Kleinfelder SEA in that firm's Facilities Conditions Report, which was the basis of the current Capital Improvement Plan. That study includes detailed audits of 31 of the City's 80+ buildings. Joel needs to meet with the Buildings Dept. to understand which buildings were omitted from the study (presumably staff-only) and determine if any of those should now be audited. Schools were last audited for accessibility around 1997-99; Parks and Recreation dept. has provided a summary of known barriers in parks and playgrounds; existing information on conditions of City rights of way (sidewalks, roads, paths) is incomplete and inconsistent.

Additionally, addressing the issue of accessibility in housing will require a similar level of information regarding the status of accessibility at all developments where section 504 of the Fair Housing Act applies, which will require the cooperation of the Newton Housing Authority.

The process of collecting all of this important information is ongoing, and an accurate assessment of what evaluation work still needs to be done depends on reviewing all existing documentation. Eventually, Joel will produce an interim report that outlines the current status of our self-evaluation and makes recommendations for how to complete it. From there, we will be able to more accurately estimate a timeline for completing an actual Transition Plan.

John L. recognizes that Joel R. has done a good job of gathering info and connecting with other ADA Coordinators, and we appreciate the amount of work he's done. We should create an interim report to the Mayor, and we may end up contracting KMA or a similar firm to do evaluations of remaining buildings/schools, etc. It's clear there's a need for more time than 19 hrs/week on the job; we may also need a commitment to allocate funding for hiring a consultant.

Rob C. mentions that while Ramping Up does not address "hardware," it provides a useful evaluation of the City's procedures and policies regarding accessibility and that some of this report can be incorporated into the final Plan.

A discussion developed about the issue of reporting accessibility complaints: in particular Barbara L. mentioned the many overhanging bushes on Beacon Street between Washington Street and the Angeir School in Waban. She complained that the City's 311 system is flawed and ineffective. Joel R. noted that revising the City's grievance procedure is an example of the kinds of details that need to be addressed in a comprehensive Transition Plan. He offered to look into the 311 system and see if any immediate improvements could be made.

John L. leaves the meeting at 8:05 (he has to attend another meeting).

### **13. New/Old Business:**

Rob C. notes lack of access from parking area to business entrances at the group of storefronts on the northwest corner of Woodland and Boylston. Barbara again mentions the same stretch of Beacon Street, but this time with regard to curb cuts in need of maintenance or w/o crosswalks (Sgt. Babcock offered to investigate).

Joel R. mentioned the revisions to the MAAB variance application for 40 Chase Street. He received these from Paul Martell late on Friday and decided not to distribute them to the COD members until after this meeting (he will do so tomorrow). He summarizes the changes: all accessible amenities will be moved to the first floor on the accessible route; Instead of the exterior ramp, a lift provides access from grade to the first floor.

Rosemary L. moves to adjourn the meeting. Rob C. seconds.

**Meeting Adjourned at 8:15 PM**

**Audible Pedestrian Signals** (Project CD13-03R. Budget: \$6,609.25; Expended: \$0; Balance: \$6,609.25). No update.

**Education Center – Accessible Building Directory Sign** (Project CD14-03U. Budget: \$4,050; Expended: \$0; Balance: \$4,050). **Planning staff met with Carol Chafetz, the Director of Operations & Environmental Affairs for Newton Public Schools, about the project. She described the history of the project, which was the last piece of an effort to improve the accessibility of the Education Center. Earlier, previously installed portions of the project include an accessible entrance, signage for individual rooms, and bathrooms. She explained that the building is nearly always in flux, with uses moving around, so the directory would need to be changeable. She also explained that the Center recently instituted a locked front door policy that requires interaction over an intercom in order to gain entrance, which would allow for assistance or directions to be requested. She is investigating any other accessibility needs within the Education Center, and if identified, the funding could be considered for reprogramming there, or for other priorities, such as curb cuts and APS units.**

### **Curb Cuts**

FY14 Curb Cut Funds \$83,791\*

**\*Total does not include the balance of projects that will come in under budget.**

<b><u>Current Projects</u></b>	<b><u>Total Budget</u></b>	<b><u>Expended</u></b>	<b><u>Remaining</u></b>
Commonwealth & Washington	\$83,170.60	\$61,510.05	\$21,660.55
Pearl & Jackson	\$42,669.00	\$11,033.46	\$31,635.54
Newton Centre	\$103,000.00	\$0.00	\$103,000.00

<b><u>Upcoming Projects</u></b>	<b><u>Total Budget</u></b>
Washington & Walnut	\$75,000.00
Lincoln/Floral & Walnut	\$75,000.00

**Commonwealth & Washington – The APS units will be moved very soon so that they are closer to the new, recently-aligned curb cuts, and then the project will be complete.**

**Pearl & Jackson – No update.**

**Newton Centre** – The Newton Centre curb cut extension phase of the project is complete, and the next phase, the addition of lighting, will be taking place in this fall. Updates will be provided at the Commission meeting.

**Historic Newton/The Jackson Homestead – Archives Preservation and Access** (CD11-03F. Budget: \$40,000, Expended: \$0, Balance: \$40,000). **The Board of Aldermen approved on October 7, 2013 the additional funds to complete the Museum Archives, Accessibility, & Fire Suppression project. Planning staff is working with the Public Buildings project manager to ensure the CDBG-funded ramp for the project is completed as soon as possible within the sequencing of the construction activities.**

**Newton Centre Playground Pathway Phase IV** - (CD13-03M. Budget \$40,000, Expended: \$0, Balance: \$40,000).

**Newton Centre Playground Pathway Phase V** - (CD14-03V. Budget \$45,000, Expended: \$0, Balance: \$45,000). **The preliminary design work that must be finished before the project can be presented to the Conservation Commission is nearly complete. The Design Engineer is currently working on both Phase path designs, and we should have those to share at the November meeting.**

**Retrofitting Curb Cuts** (Project CD13-03Q. Budget: \$4,548.82, Expended: \$0, Balance: \$4,548.82). No update.

**War Memorial Vertical and Acoustical Access Feasibility and Design** – (CD13-03S. Budget \$80,000, Expended: \$44,354 Balance: \$35,646). **The architect has completed the initial feasibility and acoustical studies. The feasibility study compared a lift in the stairwell to two locations for an elevator in other parts of the War Memorial. It was determined that a location in the lobby of the War Memorial would allow for an elevator that accommodates a gurney. The acoustical access study has also been completed and Planning staff is working with Public Buildings to determine how the recommended improvements can be incorporated into the design. The architect provided an Addendum to the Public Buildings with more detail about the elevator specifications, which the Planning Department has not received yet, so that information will be shared verbally at the October Commission meeting.**

To Alicia Bowman, Pedestrian Co-ordinator:

Several weeks ago, I sent an email to William Paille commenting on the reconfigured pedestrian crossing at Beacon and Centre Streets. I explained that I understood (and as driver, support) the need to keep traffic moving through that intersection. However, the lack of any audio or other signal to alert drivers who want to make a turn that the pedestrian walk light is on makes that intersection very dangerous for pedestrians, especially those who are crossing Centre on the south side of the intersection. I reported to him that I had nearly been hit the week before by a driver who was totally oblivious to the fact that another person and I were almost in the middle of the road. She only stopped (and apologized) when I yelled STOP!

As you know, drivers westbound on Beacon who want to turn left onto Centre have a green arrow while the eastbound Beacon Street drivers still have a red light. The walk signal comes on after the green arrow goes off. The problem is that if there is a long line of cars wanting to turn left, there are almost always drivers who will begin their turn early and accelerate through the intersection to "beat" the eastbound cars as they start to move. They are paying no attention to the pedestrian walk light.

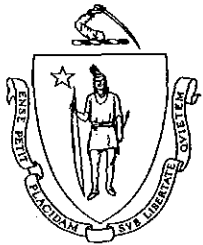
I suggested to Mr. Paille that if the audio signal cannot be reactivated so that drivers would have a warning that pedestrians are crossing, the red light/all traffic stops configuration should be brought back. Having watched the traffic for several more weeks (and having had numerous cars whiz by me while I was in the crosswalk) and having discussed this with a friend who suffers from RP and must walk with a cane, I now believe that the audio signal is insufficient. I don't think drivers with windows up, music on, and cell phone to the ear will pay attention to a chirping noise. The audio signal MUST be reactivated for pedestrians who are visually impaired so that they will know the walk light is on, but it needs to be coordinated with something else. Pedestrians with good peripheral vision can see that drivers are ignoring the walk light, but a visual impaired person might not be able to do that. I would be very interested to know if it is possible to have a red arrow that comes on when the walk light comes on.

That would seem to be a good compromise that would promote pedestrian safety without stopping cars that are going straight through the intersection.

I would also like to bring to two other items to your attention. There is nothing on the walk light buttons to let people with very poor vision know whether the button is to activate the Beacon Street or the Centre Street walk signal. Also, on the southeast corner of the intersection, the poles with the walk signal buttons are on the island. It seems to me that this is very dangerous for visually impaired pedestrians who have to cross the right turn lane to get to a "protected" crosswalk.

I read your op-ed piece in The TAB earlier this summer saying that the new signal configuration is being evaluated. I will be very interested to learn the results of that evaluation.

Cathy Schneider



Deval L. Patrick  
Governor

Andrea J. Cabral  
Secretary

*The Commonwealth of Massachusetts*  
*Department of Public Safety*  
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Thomas G. Gatzunis, P.E.  
Commissioner

Thomas P. Hopkins  
Director

[www.mass.gov/dps](http://www.mass.gov/dps)

**DECISION OF THE ARCHITECTURAL ACCESS BOARD**

Date: **September 12, 2013**

Name of Property: **Dormitory for Persons with Disabilities**

Property Address: **40 Chase Street, Newton**

Docket Number: **V13-197**

Date of Hearing: **September 9, 2013**

Enclosed please find a copy of the decision relative to the above mentioned matter.

Sincerely:

ARCHITECTURAL ACCESS BOARD

By:

Kate Sutton, Program Coordinator/Clerk for Proceedings

cc: Local Building Inspector  
Local Commission on Disabilities  
Local Independent Living Center

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

ARCHITECTURAL ACCESS BOARD  
Docket No. V13-197

In re )  
 )  
Dormitory for Persons with Disabilities )  
40 Chase Street )  
Newton, MA )  
 )

BOARD DECISION

**Introduction**

This matter came before the Architectural Access Board ("Board") as a variance, received by the Board on June 28, 2013, and submitted pursuant to 521 CMR 4.00, by Marc Slotnick, President of New England Communities, Inc. ("Petitioner"). The variance was submitted requesting variances to the following sections of 521 CMR:

- 20.1, regarding the lack of accessible route to the basement
- 20.2, regarding the lack of an accessible route to the second floor deck
- 25.1, regarding the lack of access at the existing entrances
- 27.1, regarding the lack of compliance at Stair B
- 27.4, regarding the lack of compliant handrails at Stair A
- 28.1, regarding the lack of vertical access within the building
- 32.2, regarding the lack of compliant kitchen countertops at the first floor (added in Exhibit 2)
- 44.1, regarding the lack of compliance at Bathroom 202 and the bathrooms at the first and third floors
- 45.1, regarding the lack of compliance at the first floor kitchen
- 45.4, regarding the lack of clearance at the second floor kitchen sink
- 45.5, regarding the lack of access to the cook top at the second floor kitchen

In accordance with M.G.L. c. 30A, §§ 10 and 11; 801 CMR 1.02 *et. seq.*; and 521 CMR 4.00, the Board convened a hearing on September 9, 2013 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Jonathan Safran, Project Manager for New England Communities Inc., Marc Slotnick, President of New England Communities Inc., and Paul Martell, Horne + Johnson Architecture, all appearing on behalf of the Petitioners. Slotnick and Martell were sworn in by the Chairman.

**Applicable Laws**

The Board established jurisdiction pursuant to 521 CMR 3.3.2, which states that, "[i]f the work performed, including the exempted work, amounts to 30% or more of the *full and fair cash value* (see **521 CMR 5.00**) of the *building* the entire *building* is required to comply with 521 CMR."

521 CMR 20.1 states that, “[a]n *accessible route* shall provide a continuous unobstructed path connecting *accessible spaces* and *elements* inside and outside a *facility*. *Accessible routes* may include but are not limited to *walks*, *halls*, *corridors*, *aisles*, *skywalks*, and *tunnels*. *Accessible routes* may not include stairs, steps, or escalators, even if the stairs and steps are required to be *accessible* under 521 CMR.”

Pursuant to Section 20.2 of 521 CMR, “[w]ithin the boundary of the *site*, an *accessible route(s)* shall be provided from *accessible parking*, *accessible passenger loading zones*, and public streets or *sidewalks* to the *accessible building entrance* they serve. The *accessible route(s)* shall coincide with the route for the general public.”

Section 25.1 of 521 CMR requires that, “[a]ll public *entrance(s)* of a *building* or tenancy in a *building* shall be *accessible*. Public *entrances* are any *entrances* that are not solely service *entrances*, loading *entrances*, or *entrances* restricted to employee use only.”

521 CMR 27.1, states that, “All stairs are required to comply with the following:...27.2, Treads and Risers;...27.3, Nosings;...27.4, Handrails;...27.5, Detectable Warnings at Stairs; and 27.6, Outdoor Conditions.”

Section 27.4 of 521 CMR requires that, “[h]andrails shall have the following features:...27.4.1[,] Location...27.4.2[,] Height...27.4.3[,] Extensions...27.4.4[,] Size...27.4.5[,] Shape...27.4.6[,] Surface...27.4.7[,] Clearance...27.4.8[,] End condition...[and] 27.4.9[,] Handrails shall not rotate within their fittings.”

Pursuant to 521 CMR 28.1, “[i]n all multi-story *buildings* and *facilities*, each level including *mezzanines*, shall be served by a passenger elevator. If more than one elevator is provided, each passenger elevator shall comply with 521 CMR 28. *Accessible* elevators shall be on an *accessible route* and located within the *space* with which it is intended to serve.”

Section 32.2 of 521 CMR requires that, “[c]ounter tops that contain sinks and cooking units shall provide a minimum of 15 inches (15" = 381mm) of clear countertop on at least one side of the cooking unit and on at least one side of the sink and shall have a clear space underneath that complies with **521 CMR 32.6, Kneespace**. Countertops shall be mounted no higher than 34 inches (34" = 864mm) above the finish floor. See **Fig. 32a**.”

Under the requirements of Section 44.1 of 521 CMR, “[i]n all *dwelling units* required to be *Group 2A* units, (see **521 CMR 9.4 Group 2A Dwelling Units**) all *bathrooms* and *half bathrooms* shall comply with 521 CMR 44, exclusive of the bold and italicized text which refer to *Group 2B* units. In *facilities* required to have *Group 2B bathrooms*, such as hotels, motels, inns and health facilities, the *bathroom* shall comply with 521 CMR including the bold and italicized text which refer to *Group 2B* units.”

Section 45.1 of 521 CMR states that, “[i]n all dwellings required to be *Group 2A* units (see **521 CMR 9.4 Group 2 Dwelling Units**) all kitchens shall comply with 521 CMR 45, exclusive of the bold and italicized text which refers to *Group 2B* units. In *facilities* required to provide *Group 2B* units, such as hotels, motels, and inns, the kitchen shall comply with 521 CMR 45 plus the bold and italicized text that refers to *Group 2B* units.”

Pursuant to 521 CMR 45.4, “[sinks] [s]hall comply with the following: 45.4.1, Sink cabinet: If a base cabinet is provided under the sink, it shall be removable to provide a kneespace that complies with **521 CMR 45.4.2 and 45.4.3. In Group 2B units, base cabinets shall not be installed unless kneespace is provided....** 45.4.2, Kneespace: A *clear* kneespace shall be provided or be capable of being provided under the sink, 19 inches (19" = 482mm) deep and at least 30 inches (30" = 762mm) wide. **In Group 2B units, kneespace shall be**



*provided....45.4.3, Height: The sink shall be capable of being relocated vertically in the future, without structural change to the walls of the kitchen. In Group 2B units, the kitchen sink shall be located so that there is 27 inches (27" = 685mm) from the floor to the underside of the sink....45.4.4, Countertop: A counter space at least 15 inches (15" = 381mm) wide shall be provided on one side of the sink, at the same height as the sink. This may overlap with one of the 15 inch (15" = 381mm) spaces required in 521 CMR 45.5.4. In Group 2B units, the countertop shall be set at 34 inches (34" = 863mm) above the floor to the top of the counter....45.4.5, Sink depth: Sink bowls shall not exceed 6½ inches (6½ = 165mm) in depth and shall have drains offset to the rear....45.4.6, Piping: Water pipes and drain traps shall be located as close to the rear wall of the kneespace and as high off the floor as possible to provide maximum kneespace. If there is no base cabinet under the sink, pipes and traps shall be insulated or covered....45.4.7, Disposals: If a garbage disposal has a remote switch, it shall be located on the front face (apron) of the counter located to the left or right of the sink but not in front of the sink....45.4.8, Sink Hardware: Faucets shall be operated by a single lever. A spray hose shall be provided or a knockout provided on the sink for the future installation of a spray hose."*

Section 45.5 of 521 CMR states that, "...[s]tandard ranges shall not be the only cooking surface. Cooktops shall be provided and shall comply with the following: 45.5.1, Base cabinets: If a base cabinet is provided under the cooktop, it shall be removable to provide kneespace that complies with 521 CMR 45.5.2 and 45.5.3. *In Group 2B units, base cabinets shall not be installed unless kneespace can be provided....45.5.2, Kneespace: A clear kneespace shall be provided or be capable of being provided under the cooktop, 19 inches (19" = 482mm) deep and at least 30 inches (30" = 762mm) wide. In Group 2B units, kneespace shall be provided....45.5.3, Height: The cooktop shall be capable of being relocated vertically in the future, without structural change to the walls of the kitchen. In Group 2B units, the kitchen cooktop shall be located so that there is 29 inches (29" = 737mm) from the floor to the underside of the cooktop....45.5.4, Countertop: A counter space at least 15 inches (15" = 381mm) wide shall be provided on one side of the cooktop, at the same height as the cooktop. This may overlap with one of the 15 inch (15" = 381mm) spaces required in 521 CMR 45.4.4....45.5.5, Controls: Cooktop controls shall be located at the front or side of the appliance. Exhaust hood: if the controls for a hood are located higher than 54 inches (54" = 1372mm) above the floor, a switch shall be provided at the front face (apron) of counter."*

## Exhibits

Exhibit 1: Board Packet, AAB1-35, including all correspondence and plans submitted by the Petitioner.  
Exhibit 2: August 30, 2013 submittal from Paul Martell of Horne + Johnson Architecture.

## Facts

The Variance Hearing was held on September 9, 2013 and based on the credited testimony of the witness, and the documents submitted, the Board finds the following facts:

- 1) The existing building is a three-story house (plus basement) that is being used as a two-family dwelling currently. The Petitioners are buying the property with the intention to convert it to accommodate 14 single room occupancy (SRO) rooms in a supervised setting for adults over the age of 22 with intellectual disabilities, as well as a two-bedroom staff suite at the basement level for two (2) staff members. The building is a total of 8,100 square feet, with 1,288 square feet at the basement level, 2,372 square feet at the first floor, 2,495 square feet at the second floor, and 2,044 square feet at the third floor. (Exhibit 1 and 2, and Testimony of Slotnick).
- 2) The proposed project will cost an estimated \$400,000.00, with the building valued at \$967,800.00. The project will include the installation of a vertical wheelchair lift from grade to the first floor, accessible laundry at the first floor, accessible bathing room at the first floor, and increasing accessibility at the

first floor kitchen. There will be one designated accessible SRO at the first floor, as well as an accessible route throughout the first floor to accommodate residents and potential visitors to the building. The project will also include the installation of an automatic sprinkler system, as well as a fire detection and alarm system. (Exhibit 1 and 2, and Testimony of Martell).

- 3) The Petitioners seek a variance for the lack of access to the basement level, which includes a common use laundry room and some storage space that is not available to the tenants. As an accommodation to those unable to access the basement level laundry room, there will be an accessible laundry area at the first floor, with an accessible washer and dryer. Martell noted that this accessible laundry area would be closer to the accessible bedroom. (Exhibit 1 and 2, and Testimony of Martell).
- 4) Martell noted that there will be significant work done at the first floor deck to create an accessible space for the tenants. The second floor deck has the same problems that will be corrected at the first floor deck, but due to the cost restraints, and the Petitioners argument that nothing will be different from that available at the first floor and the proposed lack of vertical access, the Petitioners are seeking to maintain the second floor deck as it is. There is a narrow door width to access the porch, excessive slope and cross slope at the deck surface, and a change in level from the interior space to the level of the deck. Martell noted that the first floor deck was comparable to the second floor space, but in fact larger than the second floor deck. Martell noted that it would cost around \$40,000.00 to create access to the second floor deck, since vertical access would be required as well. (Exhibit 1 and 2, and Testimony of Martell).
- 5) The Petitioner seeks a variance for the lack of interior vertical access between floors. Access will be created to the first floor via the exterior vertical wheelchair lift. Martell noted that in order to extend that lift from grade to the third floor it would have to travel 45 vertical feet. He added that the Petitioners argue that creating access to the basement, second and third floors would be an excessive cost with limited benefit, since the entire first floor will be accessible and will include an accessible SRO and bathroom, and there is no anticipated need for access at the upper level. Slotnick stated that they currently have reservations for 12 of the 14 rooms that will be provided within this building and that they will hold the accessible room as long as possible, but there have been no requests for an accessible room. Martell noted that an elevator would cost approximately \$60,000.00, plus an additional \$20,000.00 for the creation of the shaft. Martell did state that they had not received a definitive cost for a LULA (although Slotnick left the room at this time to contact the general contractor to see if a cost estimate for a LULA had been rendered). (Exhibit 1 and 2, and Testimony of Martell and Slotnick).
- 6) The existing house has two (2) entrances, both of which are not accessible and do not have an accessible walk leading to them. The northwest entry along Chase Street features curved stair treads, a landing at the exterior that is less than 60", a change in elevation at the door threshold, and a compact vestibule. The northeast entry features steep steps, a small landing, a change in elevation at the door threshold, and insufficient side clearances at the entry door. The Petitioners noted that significant alterations to the interior would be required, as well as repaving at the exterior, and significant ramping would be needed to accommodate the change in levels. The petitioners propose to create a new main entrance to the building that is closer to the parking area and lift, and will provide better security for tenants. (Exhibit 1 and 2, and Testimony of Martell).
- 7) Stair B is considered the former servant's stair for the building since it is much narrower than the other stair and located immediately adjacent to the kitchen. The stair has insufficient width, landings, noncompliant nosings, lack of handrails and insufficient clear headroom. Martell noted that bringing this stair into full compliance would be an excessive cost without substantial benefit to persons with disabilities. However, the Petitioners do propose to install a compliant wall-mounted handrail at Stair B. (Exhibit 1 and 2, and Testimony of Martell).
- 8) Stair A has an existing guardrail along the inside of the stair runs that is composed of newel posts and 36" high guard rails, with currently no handrails provided along the outside of the stair runs. The Petitioners noted that attaching a continuous handrail along the interior of the stair to the existing guardrail would be difficult; therefore, the Petitioners are proposing to install compliant wall-mounted handrails along Stair A. (Exhibit 1 and 2, and Testimony of Martell).

## Analysis

The Board established jurisdiction pursuant to 521 CMR 3.3.2, which states that, "[i]f the work performed, including the exempted work, amounts to 30% or more of the *full and fair cash value* (see **521 CMR 5.00**) of the *building* the entire *building* is required to comply with 521 CMR." Since the Petitioners are proposing that the project will cost an estimated \$400,000.00, with the current value of the building being \$967,800.00, the spending will be more than 30% of the value of the building (\$293,340.00) and full compliance with all applicable sections of 521 CMR is required.

The existing building is a three-story house (plus basement) that is being used as a two-family dwelling currently. The Petitioners are buying the property with the intention to convert it to accommodate 14 single room occupancy (SRO) rooms in a supervised setting for adults over the age of 22 with intellectual disabilities, as well as a two-bedroom staff suite at the basement level for two (2) staff members. The building is a total of 8,100 square feet, with 1,288 square feet at the basement level, 2,372 square feet at the first floor, 2,495 square feet at the second floor, and 2,044 square feet at the third floor.

The project will include the installation of a vertical wheelchair lift from grade to the first floor, accessible laundry at the first floor, accessible bathing room at the first floor, and increasing accessibility at the first floor kitchen. There will be one designated accessible SRO at the first floor, as well as an accessible route throughout the first floor to accommodate residents and potential visitors to the building. The project will also include the installation of an automatic sprinkler system, as well as a fire detection and alarm system.

The Petitioners seek a variance for the lack of access to the basement level, which includes a common use laundry room and some storage space that is not available to the tenants. As an accommodation to those unable to access the basement level laundry room, there will be an accessible laundry area at the first floor, with an accessible washer and dryer. Martell noted that this accessible laundry area would be closer to the accessible bedroom.

Upon reviewing the submitted documentation and testimony, the Board voted to *grant* the variance requested for 521 CMR 20.1 regarding the lack of an accessible route to the basement level laundry, on the condition that, as proposed, an accessible first floor laundry area (with an accessible washer and dryer) will be provided. The Board noted that the variance was based on the fact that the Petitioners had proven that the cost of full compliance with the applicable sections of 521 CMR would be excessive without substantial benefit to persons with disabilities.

Martell noted that there will be significant work done at the first floor deck to create an accessible space for the tenants. The second floor deck has the same problems that will be corrected at the first floor deck, but due to the cost restraints, and the Petitioners argument that nothing will be different from that available at the first floor and the proposed lack of vertical access, the Petitioners are seeking to maintain the second floor deck as it is. There is a narrow door width to access the porch, excessive slope and cross slope at the deck surface, and a change in level from the interior space to the level of the deck. Martell noted that the first floor deck was comparable to the second floor space, but in fact larger than the second floor deck. Martell noted that it would cost around \$40,000.00 to create access to the second floor deck, since vertical access would be required as well.

After reviewing the submitted testimony and documentation, the Board voted to *grant* the variance for the lack of access to the second floor porch deck (521 CMR 20.2), on the condition that there are no house activities that are held at the second floor that cannot occur at the first floor. The motion was based on the fact

that the Petitioners had proven that the cost of full compliance would be excessive without substantial benefit to persons with disabilities.

The Petitioner seeks a variance for the lack of interior vertical access between floors. Access will be created to the first floor via the exterior vertical wheelchair lift. Martell noted that in order to extend that lift from grade to the third floor it would have to travel 45 vertical feet. He added that the Petitioners argue that creating access to the basement, second and third floors would be an excessive cost with limited benefit, since the entire first floor will be accessible and will include an accessible SRO and bathroom, and there is no anticipated need for access at the upper level. Slotnick stated that they currently have reservations for 12 of the 14 rooms that will be provided within this building and that they will hold the accessible room as long as possible, but there have been no requests for an accessible room. Martell noted that an elevator would cost approximately \$60,000.00, plus an additional \$20,000.00 for the creation of the shaft. Martell did state that they had not received a definitive cost for a LULA (although Slotnick left the room at this time to contact the general contractor to see if a cost estimate for a LULA had been rendered).

The existing house has two (2) entrances, both of which are not accessible and do not have an accessible walk leading to them. The northwest entry along Chase Street features curved stair treads, a landing at the exterior that is less than 60", a change in elevation at the door threshold, and a compact vestibule. The northeast entry features steep steps, a small landing, a change in elevation at the door threshold, and insufficient side clearances at the entry door. The Petitioners noted that significant alterations to the interior would be required, as well as repaving at the exterior, and significant ramping would be needed to accommodate the change in levels. The petitioners propose to create a new main entrance to the building that is closer to the parking area and lift, and will provide better security for tenants.

The Board was concerned with the fact that two (2) accessible means of egress would be required, since 780 CMR requires two (2) means of egress from the building, per 521 CMR 20.11.1. Therefore, after reviewing the submitted testimony and documentation the Board voted to *grant* the variance requested for the lack of accessible entrances (521 CMR 25.1) at the two (2) existing entrances, on the condition that the accessible entrance is provided as proposed, and the Petitioners submit a plan regarding the need to create another accessible means of egress via the use of an exterior area of rescue assistance (521 CMR 20.11.2 and 20.12.2). The Board also voted to *require* that the Petitioners submit a dimensional drawing of the lift, showing that the platform for the side-entry-front-exit lift would be usable, with said drawing to be submitted to the Board by *September 20, 2013*.

Stair B is considered the former servant's stair for the building since it is much narrower than the other stair and located immediately adjacent to the kitchen. The stair has insufficient width, landings, noncompliant nosings, lack of handrails and insufficient clear headroom. Martell noted that bringing this stair into full compliance would be an excessive cost without substantial benefit to persons with disabilities. However, the Petitioners do propose to install a compliant wall-mounted handrail at Stair B.

Upon reviewing the submitted testimony and documentation, the Board voted to *grant* the variance to 521 CMR 27.1 (more specifically 521 CMR 27.2, 27.3, and 27.4), regarding the lack of compliance at Stair B, on the condition that, as proposed, compliant wall-mounted handrails are provided. The motion was based on the fact that the Petitioners had proven that the cost of full compliance would be excessive without substantial benefit to persons with disabilities.

Stair A has an existing guardrail along the inside of the stair runs that is composed of newel posts and 36" high guard rails, with currently no handrails provided along the outside of the stair runs. The Petitioners noted that attaching a continuous handrail along the interior of the stair to the existing guardrail would be difficult; therefore, the Petitioners are proposing to install compliant wall-mounted handrails along Stair A. (Exhibit 1 and 2, and Testimony of Martell).

Upon reviewing the submitted testimony and documentation, the Board voted to *grant* the variance to 521 CMR 27.4 regarding the lack of compliant handrails at both sides of Stair A, on the condition that, as proposed, compliant wall-mounted handrails are provided. The motion was based on the fact that the Petitioners had proven that the cost of full compliance would be excessive without substantial benefit to persons with disabilities.

The board then voted to *continue* the discussion regarding all variances sought which relate to the lack of access at the second and third floors, specifically 521 CMR 28.1, 32.2, 44.1, 45.1 and 45.5. The Board ordered that the Petitioners shall submit plans and cost estimates for a vertical wheelchair lift, Limited-Use-Limited-Application (LULA) elevator, and elevator, and the proposed written accommodation plans to the Board no later than *September 20, 2013*. The Board also voted to *expedite* the decision of the Board; therefore bypassing the requirement of the Board to approve the decision before it is sent to all parties concerned.

### Conclusion

After reviewing the matter, the Board voted as follows:

- *GRANT* the variance requested for 521 CMR 20.1 regarding the lack of an accessible route to the basement level laundry, on the condition that, as proposed, an accessible first floor laundry area (with an accessible washer and dryer) will be provided. The Board noted that the variance was based on the fact that the Petitioners had proven that the cost of full compliance with the applicable sections of 521 CMR would be excessive without substantial benefit to persons with disabilities.
- *GRANT* the variance for the lack of access to the second floor porch deck (521 CMR 20.2), on the condition that there are no house activities that are held at the second floor that cannot occur at the first floor. The motion was based on the fact that the Petitioners had proven that the cost of full compliance would be excessive without substantial benefit to persons with disabilities. (Motion carries with Board Member Gerald LeBlanc abstaining).
- *GRANT* the variance requested for the lack of accessible entrances (521 CMR 25.1) at the two (2) existing entrances, on the condition that the accessible entrance is provided as proposed, and the Petitioners submit a plan regarding the need to create another accessible means of egress via the use of an exterior area of rescue assistance (521 CMR 20.11.2 and 20.12.2). (Motion carries with Board Member Gerald LeBlanc opposed).
- *REQUIRE* that the Petitioners submit a dimensional drawing of the lift, showing that the platform for the side-entry-front-exit lift would be usable, with said drawing to be submitted to the Board by *September 20, 2013*.
- *GRANT* the variance to 521 CMR 27.1 (more specifically 521 CMR 27.2, 27.3, and 27.4), regarding the lack of compliance at Stair B, on the condition that, as proposed, compliant wall-mounted handrails are provided. The motion was based on the fact that the Petitioners had proven that the cost of full compliance would be excessive without substantial benefit to persons with disabilities.
- *GRANT* the variance to 521 CMR 27.4 regarding the lack of compliant handrails at both sides of Stair A, on the condition that, as proposed, compliant wall-mounted handrails are provided. The motion was based on the fact that the Petitioners had proven that the cost of full compliance would be excessive without substantial benefit to persons with disabilities.

- *CONTINUE* the discussion regarding all variances sought which relate to the lack of access at the second and third floors, specifically 521 CMR 28.1, 32.2, 44.1, 45.1 and 45.5. The Board ordered that the Petitioners shall submit plans and cost estimates for a vertical wheelchair lift, Limited-Use-Limited-Application (LULA) elevator, and elevator, and the proposed written accommodation plans to the Board no later than *September 20, 2013*.
- *EXPEDITE* the decision of the Board; therefore bypassing the requirement of the Board to approve the decision before it is sent to all parties concerned.

PLEASE NOTE: All documentation (written and visual) verifying that the conditions of a variance have been met, or the required work has been done, must be submitted to the AAB Office as soon the work is completed and/or on or before any ordered deadlines.

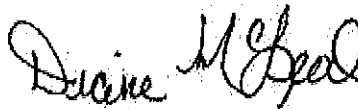
A true copy attest, dated: September 12, 2013

# **ARCHITECTURAL ACCESS BOARD**

By:



Walter White, Chair



Diane McLeod, Vice Chair



Andrew Bedar, Member

Myra Berloff, Director of Massachusetts  
Office on Disability (not present)

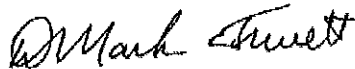


Gerald LeBlanc, Member

Raymond Glazier, Executive Office of Elder  
Affairs Designee (not present)

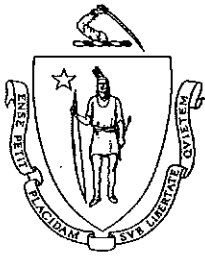


Carol Steinberg, Member



D. Mark Trivett, Member

A complete administrative record is on file at the office of the Architectural Access Board.



Deval L. Patrick  
Governor

Andrea J. Cabral  
Secretary

*The Commonwealth of Massachusetts*  
*Department of Public Safety*  
*Architectural Access Board*  
*One Ashburton Place, Room 1310*  
*Boston, Massachusetts 02108-1618*  
*Phone 617-727-0660*  
*Fax 617-727-0665*  
*www.mass.gov/dps*

Thomas G. Gatzunis, P.E.  
Commissioner

Thomas P. Hopkins  
Director

October 16, 2013

Marc Slotnick, President  
New England Communities, Inc.  
97 Parker Street  
Newton Centre, MA 02459

**Re: Notice of Amended Decision of the Board; 40 Chase Street, Newton; Docket Number V13-197**

Dear Mr. Slotnick,

On September 20, 2013, the Architectural Access Board ("Board") received your e-mail, per the requirements of the Board's September 9, 2013 decision. Your e-mail included a memo which stated that five (5) versions that were considered as a part of the overall accessibility scheme of the household, which were all deemed to be an excessive cost without substantial benefit to persons with disabilities. The memo also noted that the project team was proposing to enlarge the vertical wheelchair lift in the proposed scheme to a cab providing clear dimensions of 46" by 58", and the Owner would offer an accommodation policy for any activities not located at the first floor.

The memo also noted that the existing counter height at the first floor kitchen is measured at 36" above the floor. The Petitioners are proposing to maintain the existing cabinets, based on the cost, and would be reconfiguring the existing layout to provide the required clear floor space throughout the kitchen. The memo also noted that any new base cabinets purchased would accommodate the required 34" countertops. The Petitioners propose to offer an accommodation policy that if there is a tenant that would require all 34" countertops, the Owner would modify the base cabinets to accommodate that tenant. The Petitioners are also seeking a variance for the lack of access at the second floor kitchen.

The memo also noted that since there are multiple common bathrooms at the second and third floors, making them fully compliant would be infeasible, but that they would add grab bars at areas that are receiving new finishes. The Petitioners reiterated that meeting the dimensional requirements of 521 CMR 44.1 was not possible due to the existing layout of the building.

The Board reviewed the submittals during an administrative discussion at their regularly scheduled October 7, 2013 meeting, and voted as follows:

- *GRANT* relief for the lack of vertical access (521 CMR 28.1) to the third floor, provided that they create access into the building and up to the second floor, per Interior Lift Plan B, to be completed (and verified as such) by the end of the project.
- *GRANT* the variances for the second and third bathrooms (521 CMR 44.1) for all but one (1) of the bathrooms at the second floor. The Board noted that if the dimensional requirements for the accessible bathroom cannot strictly be met, the Petitioners may request additional variances, to be submitted to the Board *within 30 days receipt of this decision*.
- *DENY* the variance requested for 521 CMR 32.2, regarding the lack of compliant countertops for the first floor kitchen. The motion was based on the fact that the Petitioners had not proven that full compliance would be "impracticable" as defined in 521 CMR 5.
- *DENY* the variance requested for 521 CMR 45.1, regarding the lack of accessibility at the second floor kitchen. The motion was based on the fact that the Petitioners had not proven that full compliance would be "impracticable" as defined in 521 CMR 5. The Board also noted that they would like the Petitioners to submit a partial modification proposal for the existing second floor kitchen, *within 30 days receipt of this decision*.

#### ARCHITECTURAL ACCESS BOARD

By:

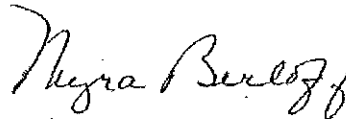


Walter White, Chair

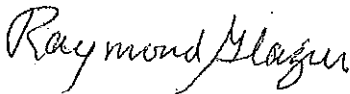
Diane McLeod, Vice Chair (not present)



Andrew Bedar, Member



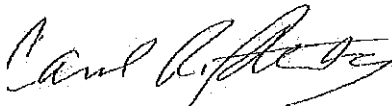
Myra Berloff, Director of Massachusetts  
Office on Disability



Raymond Glazier, Executive Office of Elder  
Affairs Designee



Gerald LeBlanc, Member



Carol Steinberg, Member

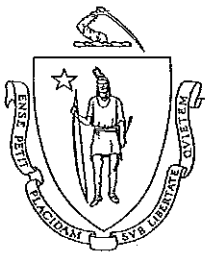
D. Mark Trivett, Member (not present)

A complete administrative record is on file at the office of the Architectural Access Board.

cc: Local Building Inspector







Deval L. Patrick  
Governor

Andrea J. Cabral  
Secretary

*The Commonwealth of Massachusetts*  
*Department of Public Safety*

*Architectural Access Board*  
*One Ashburton Place, Room 1310*

*Boston, Massachusetts 02108-1618*

*Phone 617-727-0660*

*Fax 617-727-0665*

*www.mass.gov/dps*

Thomas G. Gatzunis, P.E.  
Commissioner

Thomas P. Hopkins  
Director

TO: Local Building Inspector  
Local Disability Commission  
Independent Living Center

Docket Number **V 13 219**

FROM: ARCHITECTURAL ACCESS BOARD

RE: **Nathaniel Allen House**  
**35 Webster Street**  
**Newton**

Date: **9/12/2013**

Enclosed please find the following material regarding the above location:

☐ Application for Variance

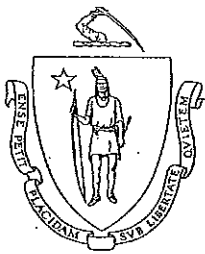
☒ Decision of the Board *w/conditions*

☒ Notice of Hearing

☐ Correspondence

☐ Letter of Meeting

The purpose of this memo is to advise you of action taken or to be taken by this Board. If you have any information which may assist the Board in reaching a decision in this case, you may call this office or you may submit comments in writing.



Deval L. Patrick  
Governor

Andrea J. Cabral  
Secretary

*The Commonwealth of Massachusetts*  
*Department of Public Safety*  
*Architectural Access Board*  
*One Ashburton Place, Room 1310*  
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*Fax 617-727-0665*

*www.mass.gov/dps*

Thomas G. Gatzunis, P.E.  
Commissioner

Thomas P. Hopkins  
Director

Docket Number V 13 219

**NOTICE OF ACTION**

**RE: Nathaniel Allen House, 35 Webster Street**

1. A request for a variance was filed with the Board by Thomas Concannon, <sup>Newton</sup> (Applicant) on July 26, 2013  
The applicant has requested variances from the following sections of the 06 Rules and Regulations of the Board:

<u>Section:</u>	<u>Description:</u>
20.1	Accessible route - House (time variance)
25.1	Entrances
30.1	Public Toilet Rooms
27.1	Stairs

2. The application was heard by the Board as an incoming case on Monday, September 9, 2013

3. After reviewing all materials submitted to the Board, the Board voted as follows:

**GRANT:** the phase one plan on the condition that the first floor is accessible and a compliant toilet room is provided prior to opening the building for public use. In addition, the Board voted to allow the use of the second floor on the condition that an accommodation plan is in place ensuring that any services offered on the second floor are available on the first floor and that in phase 2 of the project a full service, EMT compliant 5 stop elevator is installed as stated serving 24 of the 27 spaces proposed for public use. The Board voted to schedule a hearing on the phase two (2) portion of the project for those items that are triggered by 521 CMR Section 3.3.2. Your hearing Notice is enclosed.

Photographs of the 1st floor accessible entrance and toilet room are required for the Boards files upon completion of the work.

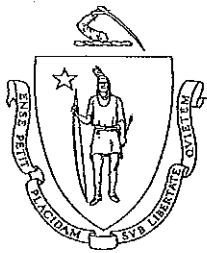
**PLEASE NOTE: All documentation (written and visual) verifying that the conditions of the variance have been met must be submitted to the AAB Office as soon as the required work is completed.**

Any person aggrieved by the above decision may request an adjudicatory hearing before the Board within 30 days of receipt of this decision by filing the attached request for an adjudicatory hearing. If after 30 days, a request for an adjudicatory hearing is not received, the above decision becomes a final decision and the appeal process is through Superior Court.

Date: September 12, 2013

cc: Local Disability Commission  
Local Building Inspector  
Independent Living Center

*Walter White T.H.*  
Chairperson  
ARCHITECTURAL ACCESS BOARD



Deval L. Patrick  
Governor

Andrea J. Cabral  
Secretary

*The Commonwealth of Massachusetts*  
*Department of Public Safety*  
*Architectural Access Board*  
*One Ashburton Place, Room 1310*  
*Boston, Massachusetts 02108-1618*  
*Phone 617-727-0660*  
*Fax 617-727-0665*  
*www.mass.gov/dps*

Thomas G. Gatzunis, P.E.  
Commissioner

Thomas P. Hopkins  
Director

**VARIANCE HEARING**

**RE: Nathaniel Allen House, 35 Webster Street, Newton**

You are hereby notified that an informal adjudicatory hearing before the Architectural Access Board has been scheduled for you to appear on Monday, **January 6, 2014** at **11:00 a.m.** at One Ashburton Place, 21st Floor, Boston, MA 02108.

This hearing is upon an application for variance filed by: Thomas Concannon, for modification of or substitution of the following Rules and Regulations: 20.1, 25.1, 26.1, 27.1, and 30.1  
A copy of the request is available for public inspection during regular business hours.

You should be aware that the burden of proof is upon the applicant requesting a variance to prove that compliance is either: 1. technologically infeasible or; 2. the cost of compliance is excessive without substantial benefit to a person with a disability.

This hearing will be conducted in accordance with the procedures set forth in M.G.L., c. 30A, and 801 CMR 1.02, the Informal/Fair Hearings Rules. At the hearing, each party may be represented by counsel, may present evidence and may cross examine opposing witnesses.

Also, please note that all attendees will be asked to turn off all cell phones and pagers while the Board is in session.

ARCHITECTURAL ACCESS BOARD

Date: September 12, 2013

Walter White T.H.  
Chairperson

cc: Local Building Inspector  
Independent Living Center  
Local Disability Commission

**REQUEST FOR TRAFFIC IMPROVEMENT OR CHANGE  
CITY OF NEWTON TRAFFIC COUNCIL, ROOM 101A  
1000 COMMONWEALTH AVENUE  
NEWTON CENTRE 02459**

The Traffic Council is administered through the Clerk of the Board's Office. The Petitioner and other parties who may in the Council's judgment be substantially affected by such petition will be notified with the first date the petition will be discussed by the Traffic Council. NOTE: There are additional petition requirements for Resident Only Permit Areas; see Sec. 19-201 of the City of Newton Ordinances. If you have further questions, please call the Clerk of the Board's Office at (617) 796-1210.

Complete both sides and submit to the Clerk of the Board's Office (PLEASE TYPE or PRINT):

PETITIONER'S NAME Cornelia Cain-Heard SIGNATURE: \_\_\_\_\_  
ADDRESS: 80 West Street Unit # \_\_\_\_\_  
TELEPHONE (DAY): 617-202-9677 (EVENING): 617-202-9677

1. Identify the location and briefly describe the nature of the problem:

The location is directly in front of my house. The problem is that I am unable to turn head because of cervical problems that include my neck and shoulders. To park in my driveway causes me to have to turn my head from side to side. I cannot do that quickly enough to safely exit the driveway before cars begin to come in opposite direction. The space seems to be very popular with many of the neighbors because it is taken at least 3/4 to 100% of the time. It would be very helpful to me if this space was made into an accessible space.

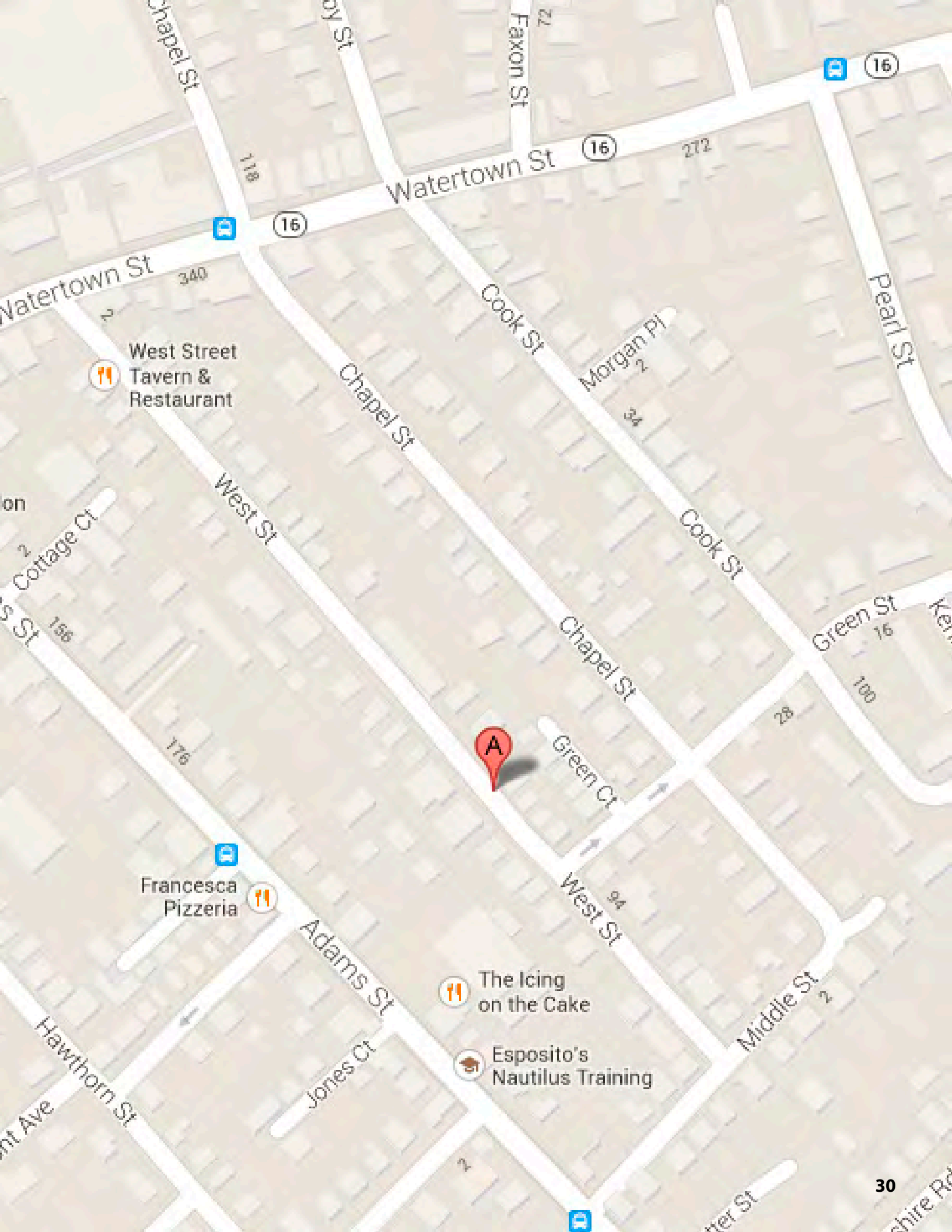
(Ward 1) [10/09/13 @ 4:07PM]

2. Draw a simple diagram or attach a map in the box below that shows the subject street(s) and conditions.



North ↑

3. Obtain required signatures on reverse side of this form.



DATE FILED: \_\_\_\_\_

## REQUIRED SIGNATURES (Please Print)

♦Petitions for intersectional controls/regulations (traffic signals, stop signs, no turn on red, etc.) require a total of six (6) signatures (including petitioner's) from owners or tenants whose building or lot of land is located within five-hundred (500) feet of the affected intersection (one signature per household or business).

♦Petitions for parking restrictions, truck exclusions, speed limits, and all other traffic regulations must be signed by one (1) owner or tenant of at least half of the residential, commercial and/or non-profit units which abut the affected street or way, provided that in no event shall more than ten (10) signatures (including petitioner's) be required (one signature per household or business).

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_ UNIT# \_\_\_\_\_  
TELEPHONE (DAY) \_\_\_\_\_ (EVENING): \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_ UNIT# \_\_\_\_\_  
TELEPHONE (DAY) \_\_\_\_\_ (EVENING): \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_ UNIT# \_\_\_\_\_  
TELEPHONE (DAY) \_\_\_\_\_ (EVENING): \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_ UNIT# \_\_\_\_\_  
TELEPHONE (DAY) \_\_\_\_\_ (EVENING): \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_ UNIT# \_\_\_\_\_  
TELEPHONE (DAY) \_\_\_\_\_ (EVENING): \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_ UNIT# \_\_\_\_\_  
TELEPHONE (DAY) \_\_\_\_\_ (EVENING): \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_ UNIT# \_\_\_\_\_  
TELEPHONE (DAY) \_\_\_\_\_ (EVENING): \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_ UNIT# \_\_\_\_\_  
TELEPHONE (DAY) \_\_\_\_\_ (EVENING): \_\_\_\_\_

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_  
ADDRESS \_\_\_\_\_ UNIT# \_\_\_\_\_  
TELEPHONE (DAY) \_\_\_\_\_ (EVENING): \_\_\_\_\_



**P07544944**

**Expires:**

**09-23-16**

**Disabled Persons  
Parking Identification Placard**



CAIN-HEARD

CORNELIA

MOSES

**Commonwealth of  
Massachusetts**



Please visit our website at  
[mass.gov/rmv](http://mass.gov/rmv)

**Penalties**  
(as of January 2010)  
For wrongful display of this Placard in a vehicle parked in a designated handicapped parking space, or in a metered or 'commercial' space:  
**Minimum Fine: \$500**  
**Minimum Loss of License: 30 days**

Per M.G.L. Ch.90, Sec 2 this Placard is for the exclusive use of the authorized holder while being transported in a private passenger vehicle. Wrongful use by any other person may result in revocation of Placard and a citation.

**WARNING**

**Important:** Remove before driving vehicle